

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
TUESDAY, JUNE 10, 1997
AT 9:00 A.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

CHRONOLOGY OF THE MEETING:

The meeting was called to order by Mayor Golding at 11:07 a.m. Mayor Golding recessed the regular meeting at 11:15 a.m. to convene the Housing Authority. Mayor Golding reconvened the regular meeting at 11:17 a.m. with Council Member Warden not present. The meeting was recessed by Mayor Golding at 12:18 p.m. to reconvene at 2:00 p.m.

The meeting was reconvened by Mayor Golding at 2:10 p.m. with Council Members Kehoe and Stevens not present. Mayor Golding announced that a special meeting of the City Council will be held on Wednesday, June 18, 1997, in the Council Chamber for further discussion on the merger of Enova Corporation and Pacific enterprises and related proceedings. Mayor Golding recessed the meeting at 5:32 p.m. to reconvene the Housing Authority. Mayor Golding reconvened the meeting at 5:42 p.m. with all members of the Council present. Mayor Golding adjourned the meeting at 5:45 p.m.

ATTENDANCE DURING THE MEETING:

- (M) Mayor Golding-present
- (1) Council Member Mathis-present
- (2) Council Member Wear-present
- (3) Council Member Kehoe-present
- (4) Council Member Stevens-present
- (5) Council Member Warden-present

- (6) Council Member Stallings-present
- (7) Council Member McCarty-present
- (8) Council Member Vargas-present
- Clerk-Abdelnour/Fishkin (mc;mp)

FILE LOCATION: MINUTES

ITEM-300: ROLL CALL

Clerk Abdelnour called the roll:

- (M) Mayor Golding-present
- (1) Council Member Mathis-present
- (2) Council Member Wear-present
- (3) Council Member Kehoe-present
- (4) Council Member Stevens-present
- (5) Council Member Warden-not present
- (6) Council Member Stallings-not present
- (7) Council Member McCarty-present
- (8) Council Member Vargas-present

PUBLIC COMMENT:

ITEM-PC-1:

Comment by Pat Gallagher regarding the fact that she could not find any Council District maps that reflected the wetlands area. She requested that Council take better care of the wetlands.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A015-042.)

COUNCIL COMMENT:

None.

ITEM-108:

SUBJECT: Amendments and Extensions to City Police Towing
Contracts.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-97-1348) ADOPTED AS RESOLUTION R-288831

Authorizing the City Manager to extend five police
towing services contracts which were effective January
1, 1995, for an additional five years;

Authorizing the City Manager to enter into amendments
to each of the contracts, together with any reasonably
necessary modifications or amendments which do not
further increase the project scope or costs;

The five companies and their respective tow districts
are:

1. San Diego Police Tow Operators - (Tow Districts
3, 8 & 9)
2. Allied Gardens Towing - (Tow Districts 4 & 7)
3. C & D Towing - (Tow Districts 5 & 6)

4. Anytime Towing - (Tow District 1)

5. Star Towing - (Tow District 2)

CITY MANAGER SUPPORTING INFORMATION:

This matter is related to the settlement of the case San Diego Police Tow Operators, Inc., et al. v. City of San Diego, et al, San Diego Superior Court Case No. 681578. The resolution will authorize the City Manager, pursuant to the original contract provisions, to exercise the options to extend and make amendments to five City police towing contracts. The companies awarded the contracts, and their respective tow (Council) districts are:

1. San Diego Police Tow Operators - (Tow Districts 3, 8 & 9)
2. Allied Gardens Towing - (Tow Districts 4 & 7)
3. C & D Towing - (Tow Districts 5 & 6)
4. Anytime Towing - (Tow District 1)
5. Star Towing - (Tow District 2)

The Settlement Agreement calls for the City to consider taking the following actions on the towing contracts:

Exercise the options provided in the contract to extend the contracts for an additional five years. (The Police Department is satisfied with the existing contractors' performance and recommends the extensions.)

Agree to waive the 5 percent re-opener clause. (This clause allowed the City a one-time option to increase the referral fees by up to 5 percent after the second contract year in order to adjust for inadequate initial estimates of cost recovery.)

Agree to reduce the fee for private tow requests to \$5.00 per call. (It was agreed that the \$5.00 fee was an amount not likely to deter the acceptance of the tow contractor referred to the call, and would increase the number of actual referral fees collected on behalf of the City.)

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FILE LOCATION: PURCHASE CONFY97-5

COUNCIL ACTION: (Tape location: A043-097.)

CONSENT MOTION BY McCARTY TO ADOPT. Second by Wear. Passed by the following vote: Mathis-yea, Wear-yea, Kehoe-yea, Stevens-yea, Warden-not present, Stallings-yea, McCarty-yea, Vargas-yea, Mayor Golding-yea.

ITEM-200:

SUBJECT: Two actions related to Year End Budget Adjustments.

CITY MANAGER'S RECOMMENDATION:

Adopt the resolution in Subitem A; and hold the first public hearing of the ordinance in Subitem B:

Subitem-A: (R-97-1333) ADOPTED AS RESOLUTION R-288838

Authorizing year end budget adjustments.

Subitem-B: (O-97-113) HEARING HELD ON MONDAY,
JUNE 9, 1997

First public hearing of an Ordinance amending Ordinance No. O-18328 (New Series), entitled "An Ordinance Adopting the Annual Budget for the Fiscal Year 1996-97 and Appropriating the Necessary Money to Operate the City of San Diego for Said Fiscal Year."

NOTE: See Item 334 on the docket of Tuesday, June 10, 1997, for the introduction and adoption of the Ordinance.

FILE LOCATION: Subitem-A: MEET; Subitem-B: None

COUNCIL ACTION: (Tape location: F650-G114.)

MOTION BY WEAR TO ADOPT ITEM-200A AND TO INTRODUCE, DISPENSE WITH THE READING AND ADOPT ITEM-334. Second by Mathis. Passed by the following vote: Mathis-yea, Wear-yea, Kehoe-nay, Stevens-yea, Warden-yea, Stallings-yea, McCarty-yea, Vargas-yea, Mayor Golding-yea.

ITEM-330:

SUBJECT: Matter of the appeals by National Enterprises, Inc. for San Diego Investments #1 LLC.- owners; Sam's Super Food, Mike Gardy, Lessee, et al., from the decision of the Board of Zoning Appeals in partially approving the request to amend Alcoholic Conditional Use Permit C-20805. (Sam's Super Food)

(C-20805. Mid-City Community Area. District-4.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following Resolution to deny the appeals and to sustain the decision of the Board of Zoning Appeals:

(R-97-1441) DENY APPEAL OF NATIONAL ENTERPRISE INC.;
GRANT APPEAL OF GERALDA STRYKER, OVERTURNING
THE DECISION OF THE BOARD OF ZONING APPEALS,
ADOPTED AS RESOLUTION R-288832

Adoption of a Resolution approving or denying the appeals and denying or sustaining the decision of the Board of Zoning Appeals.

SUPPORTING INFORMATION:

The appeal is being requested to (1) amend C-20805 which permits the sale of alcoholic beverages, where such is

permitted by Conditional Use Permit only; and (2) to modify conditions imposed on the previously approved permit relating to window advertising, types of alcoholic beverages and the sale of individual containers.

NOTE: On May 13, 1997, Council voted 8 to 0 to hear the appeal.

LEGAL DESCRIPTION:

The property is more particularly described as Lot 1, Terrace View Villas, Map-11840, at 4111 Home Avenue, located on the southeasterly corner of Home Avenue and Spillman Drive, CN Zone, in the Mid-City Community Planning Area.

FILE LOCATION: ZONE - C-20805

COUNCIL ACTION: (Tape location: A113-B276.)

Hearing began at 11:17 a.m. and halted at 12:10 p.m.

Testimony in opposition by Gerri Stryker, Bill Tall, Adele Campbell, Michael Dunn, Marla Reese, and Robin Sears.

Testimony in favor by Marilyn Kingsley, John Stump, Mike Gardy, Abid Sadik, and Maysoon Kuriel.

MOTION BY STEVENS TO ADOPT THE RESOLUTION DENYING THE APPEAL OF THE NATIONAL ENTERPRISE, INC., AND APPROVING THE APPEAL OF THE CITY HEIGHTS AREA PLANNING COMMITTEE. Second by Kehoe. Passed by the following vote: Mathis-yea, Wear-yea, Kehoe-yea, Stevens-yea, Warden-not present, Stallings-yea, McCarty-yea, Vargas-yea, Mayor Golding-yea.

ITEM-331:

SUBJECT: Finkelstein Law Office (the Edward Grove Residence)
Conditional Use Permit to allow the adaptive reuse of a
designated historic site as law offices.

(CUP-96-0689. Uptown Community Area. District-3.)

CITY MANAGER'S RECOMMENDATION:

Adopt Subitem A, and adopt Subitem B to grant the permit:

Subitem-A: (R-97-1259) ADOPTED AS RESOLUTION R-288833

Adoption of a Resolution certifying that the
information contained in Environmental Mitigated
Negative Declaration LDR-96-0689 has been completed in
compliance with the California Environmental Quality
Act of 1970 and State guidelines, and that the
declaration reflects the independent judgement of the
City as Lead Agency, and adopting the Mitigation,
Monitoring, and Reporting Program pursuant to
California Public Resources Code Section 21081.

Subitem-B: (R-97-165) GRANT PERMIT, ADOPTED AS
RESOLUTION R-288834

Adoption of a Resolution granting or denying the
permit, with appropriate findings to support Council
action.

SUPPORTING INFORMATION:

The proposed Conditional Use Permit would allow the adaptive
reuse of a designated historic site as offices. The project
includes converting an existing residential building into a law
office with no on-site parking spaces in the Uptown Community
Planning Area.

LEGAL DESCRIPTION:

The project is located at 2243 Front Street, and is more particularly described as Lot C, Block 255, Horton's Addition in the MR-1000 Zone of the Mid City Communities Planned District within the Parkwest neighborhood of the Uptown Community Planning Area.

CITY MANAGER SUPPORTING INFORMATION:

On March 27, 1997, the Planning Commission voted unanimously (7-0-0) to recommend to the City Council support of the Manager's recommendation of the proposed project. The Conditional Use Permit would allow the conversion of an historic residence to commercial use as law offices with no on-site parking located at 2243 Front Street within the Uptown Community Planning Area. The Planning Commission recommended approval of the project subject to conditions as described in the draft resolution and draft Permit 96-0689 with the following modifications and additions to the draft Permit:

1. Draft condition No. 2 was revised to change the hours of operations 8:00 a.m. to 5:30 p.m., and the total number of employees to seven.
2. Draft condition No. 7 was revised to read that the Conditional Use Permit would expire if the historic site loses its historic site designation.
3. Condition No. 26 was added requiring that specific historic features within the interior of the building be maintained.

FILE LOCATION: PERM - CUP-96-0689

COUNCIL ACTION: (Tape location: A043-097.)

Hearing began at 11:11 a.m. and halted at 11:15 a.m.

CONSENT MOTION BY McCARTY TO ADOPT. Second by Wear. Passed by the following vote: Mathis-yea, Wear-yea, Kehoe-yea, Stevens-yea, Warden-not present, Stallings-yea, McCarty-yea, Vargas-yea, Mayor Golding-yea.

ITEM-332:

SUBJECT: A Tentative Map and a Street Vacation No. 96-0711
within the Rancho Penasquitos Community Plan Area.
(Stargaze Estates).

(TM/VAC-96-0711. District-1.)

CITY MANAGER'S RECOMMENDATION:

Adopt Subitems A and C; adopt Subitem B to grant the map.

Subitem-A: (R-97-1257) ADOPTED AS RESOLUTION R-288835

Adoption of a Resolution certifying that the information contained in Environmental Negative Declaration DEP-96-0711 has been completed in compliance with the California Environmental Quality Act of 1970 and State guidelines, and that said declaration has been reviewed and considered by the Council pursuant to California Public Resources Code Section 21081.

Subitem-B: (R-97-) GRANT MAP, ADOPTED AS RESOLUTION
R-288836

Adoption of a Resolution granting or denying the Tentative Map, with appropriate findings to support Council action.

Subitem-C: (R-97-1258) ADOPTED AS RESOLUTION R-288837

Adoption of a Resolution authorizing the vacation of a street easement in connection with Stargaze Estates (TM-96-0711) as provided for under Section 66499.20-1/2 of the State Map Act.

SUPPORTING INFORMATION:

The vacant, 3.26-acre site is located at the northwest corner of Black Mountain Road and Stargaze Avenue within the Rancho Penasquitos Community Plan Area. The subject property and surrounding properties are zoned R1-5000 (single-family residential). The adopted Rancho Penasquitos Community Plan designates the site for low density residential development (5-10 du/ac) or Religious Facility. The subject site was originally subdivided and graded for use as a church site. The property owner is now proposing to subdivide the parcel into single-family residential lots, similar to the surrounding development.

The Stargaze Estates, Tentative Map and Street Vacation No. 96-0711, proposes the subdivision of the 3.26-acre parcel into fifteen (15) single-family residential lots and to vacate a street easement recorded on July 10, 1899. The road easement may lie within a portion of Black Mountain Road, however, since the deeds do not set forth the exact location of the easement its limits cannot be plotted. The street must be vacated to clear the title to the property and accommodate the proposed subdivision. The vacation of this road easement would not impede access to any property nor would it result in any other adverse effects.

The proposed map and street vacation are consistent with the General Plan, the Rancho Penasquitos Community Plan, requirements of the underlying R1-5000 Zone, and with the subdivision regulations. Staff recommends approval of the TM/VAC-96-0711 subject to conditions.

LEGAL DESCRIPTION:

The project site is more particularly described as being located at the northwest corner of the Black Mountain Road/Stargaze Avenue intersection, within the Rancho Penasquitos Community Plan Area and is more particularly described as Lot 170, Map-9948.

FILE LOCATION: Subitems A, C: STRT J-2868; Subitem B:
 SUBD - Stargaze Estates DEEDFY97-1

COUNCIL ACTION: (Tape location: A043-097.)

Hearing began at 11:11 a.m. and halted at 11:15 a.m.

CONSENT MOTION BY McCARTY TO ADOPT. Second by Wear. Passed by the following vote: Mathis-yea, Wear-yea, Kehoe-yea, Stevens-yea, Warden-not present, Stallings-yea, McCarty-yea, Vargas-yea, Mayor Golding-yea.

ITEM-333:

SUBJECT: Public Hearing to Levy Assessments for Fiscal Year 1998 for previously established Business Improvement Districts.

(Mid-City, Centre City, Uptown, Greater North Park, Old San Diego, Ocean Beach, La Jolla, Southeast San Diego, College Area, Mission Beach, and Pacific Beach Community Areas. Districts-1,2,3,4,7.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-97-1196 Cor. Copy) ADOPTED AS RESOLUTION R-288839

Levying annual assessments within previously
established Business Improvement Districts for July 1,
1997 through June 30, 1998 (FY 1998).

CITY MANAGER SUPPORTING INFORMATION:

Business Improvement Districts (BIDS) are authorized by State law to assess benefitted businesses for the cost of certain activities. These activities are generally promotional in nature. Once a BID is established the City collects the assessments and disburses them to an appropriate entity representing the district pursuant to an annual operating agreement. There are currently 16 active districts in the City of San Diego: Adams Avenue, City Heights, College Area, Diamond, Downtown, El Cajon Boulevard Gateway, El Cajon Boulevard Center, Gaslamp, Hillcrest, La Jolla, Little Italy, Mission Hills, North Park, Ocean Beach, Old Town, and Pacific Beach. State law requires that the City Council annually adopt a budget for each BID and hold a public hearing to levy appropriate assessments. The actions taken May 27, 1997 accepted the budget reports and set Tuesday, June 10, 1997 for the public hearing to levy the proposed assessment for each BID for FY 1998.

ATTORNEY'S STATEMENT: In Attorney opinion ML 97-2 dated January 10, 1997, the City Attorney opined that the provisions of Proposition 218 did not apply to Business License-Based Business Improvement Districts in San Diego.

FILE LOCATION: STRT - L-1, L-2, L-3, L-4, L-5, L-6,
 L-7, L-8, L-9, L-11, L-12, L-13, L-14,
 L-15, L-16, L-17

COUNCIL ACTION: (Tape location: G119-500.)

Hearing began at 5:05 p.m. and halted at 5:32 p.m.

Testimony in opposition by Lou Kartsonis, Donna Frye and
Scott Barnett.

Testimony in favor by Walter Wade, Jackie O'Connor, and Gerrie Trussell.

MOTION BY WEAR TO ADOPT. Second by Stallings. Passed by the following vote: Mathis-yea, Wear-yea, Kehoe-yea, Stevens-yea, Warden-yea, Stallings-yea, McCarty-yea, Vargas-yea, Mayor Golding-nay.

ITEM-334:

SUBJECT: Year End Budget Adjustments.

CITY MANAGER'S RECOMMENDATION:

Introduce and adopt the following ordinance:

(O-97-113) INTRODUCED AND ADOPTED AS ORDINANCE O-18414
(New Series)

Amending Ordinance No. O-18328 (New Series), entitled
"An Ordinance Adopting the Annual Budget for the Fiscal
Year 1996-97 and Appropriating the Necessary Money to
Operate the City of San Diego for Said Fiscal Year."

NOTE: See Item 200 Subitem B on the regular docket of Monday, June 9, 1997 for the first public hearing of the ordinance. Today's action is the second public hearing for the introduction and adoption of the ordinance.

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: B311-389; F650-G114.)

MOTION BY WEAR TO ADOPT ITEM-200A AND TO INTRODUCE, DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Mathis. Passed by the following vote: Mathis-yea, Wear-yea, Kehoe-nay, Stevens-yea, Warden-yea, Stallings-yea, McCarty-yea, Vargas-yea, Mayor Golding-yea.

ITEM-S401: REFERRED TO THE BUDGET HEARINGS PROCESS

SUBJECT: In the Matter of Enterprise Fund Transfers to the
City's General Fund.

The purpose of today's hearing is to consider the
City's current practice of fund transfers from the
Enterprise Funds to the General Fund and, if necessary,
take any appropriate action.

FILE LOCATION: MEET

COUNCIL ACTION: (Tape location: F594-596.)

ITEM-S500: CONTINUED TO THE SPECIAL COUNCIL MEETING TO BE
HELD ON WEDNESDAY, JUNE 18, 1997

SUBJECT: In the matter of authorizing the joint application of
Enova Corporation and Pacific Enterprises for approval
by the California Public Utilities Commission, Case No.
96-10-038, and the Federal Energy Regulatory
Commission, Case No. EC 97-012-000, of a merger of
Enova Corporation and Pacific Enterprises, and related
proceedings.

PURPOSE OF HEARING:

To take public testimony on the proposed merger and, if
appropriate or necessary:

1) Give direction to the City Attorney concerning the
City's participation in the indicated administrative
hearings and related proceedings; and

2) Adopt a position regarding the proposed merger.

FILE LOCATION: NONE

COUNCIL ACTION: (Tape location: C004-F593.)

MOTION BY McCARTY TO DIRECT THE CITY MANAGER AND CITY ATTORNEY TO CONTINUE TO WORK WITH SAN DIEGO GAS & ELECTRIC ON THE VARIOUS CONDITIONS AND ON THE CONCERNS EXPRESSED AT THE MEETING, AND TO REPORT BACK TO COUNCIL NEXT WEEK (JUNE 18, 1997) AT WHICH TIME COUNCIL WILL DECIDE WHETHER OR NOT THEY WANT TO FILE TESTIMONY IDENTIFYING CONCERNS AND REQUESTING IMPOSITION OF CONDITIONS. Second by Wear. Passed by the following vote: Mathis-yea, Wear-yea, Kehoe-yea, Stevens-yea, Warden-yea, Stallings-yea, McCarty-yea, Vargas-yea, Mayor Golding-yea.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Mayor Golding at 5:45 p.m. in honor of the memory of Nina R. Graves as requested by Council Member McCarty.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: H090).